

PART 965—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAIL DISPUTES

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AUTHORITY: 39 U.S.C. 204, 401.

SOURCE: 52 FR 29012, Aug. 5, 1987, unless otherwise noted.

§ 965.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service pursuant to authority delegated by the Postmaster General.

[76 FR 15219, Mar. 21, 2011]

§ 965.2 Scope of rules.

The rules in this part shall be applicable to mail dispute cases forwarded to the Judicial Officer pursuant to Postal Operations Manual section 616.21.

[76 FR 15219, Mar. 21, 2011]

§ 965.3 Notice to parties.

Upon receipt of a mail dispute case, the Recorder, Office of the Judicial Officer, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, will send a notice of docketing and submission due date to the parties together with a copy of these rules.

[76 FR 15219, Mar. 21, 2011]

§ 965.4 Presiding officers.

(a) The presiding officer shall be an Administrative Law Judge, an Administrative Judge qualified in accordance with law, or any other qualified person licensed to practice law designated by the Judicial Officer to preside over a proceeding conducted pursuant to this part. The Judicial Officer assigns cases

under this part. Judicial Officer includes Associate Judicial Officer upon delegation thereto. The Judicial Officer may, on his or her own initiative or for good cause found, preside at the reception of evidence.

(b) The presiding officer has authority to:

(1) Take such action as may be necessary to preside properly over the proceeding and render decision therein;

(2) Render an initial decision, if the presiding officer is not the Judicial Officer; or if the presiding officer is the Judicial Officer, issue a tentative or a final decision or order.

[52 FR 29012, Aug. 5, 1987, as amended at 75 FR 6570, Feb. 10, 2010; 76 FR 15219, Mar. 21, 2011]

§ 965.5 Initial submissions by parties.

Within 15 days after receipt of the Recorder's notice, each party shall file with the Recorder a sworn statement of the facts supporting its claim to receipt of the mail together with a copy of each document on which it relies in making such claim, and any arguments supporting its claim.

[76 FR 15219, Mar. 21, 2011]

§ 965.6 Comments by parties.

Within 10 days of receipt of the other party's initial submission under § 965.5, each party may file with the Recorder an additional statement or rebuttal argument setting forth in detail its disagreements, if any, with its opponent's initial submission. Such rebuttal may include any additional documents relevant to the dispute.

[76 FR 15219, Mar. 21, 2011]

§ 965.7 Default.

A party who fails to file the submittal required by § 965.5 may be held in default and the presiding officer may issue an initial decision that mail be delivered to the other party.

§ 965.8 Hearings.

(a) Generally, mail dispute cases are resolved based on written submissions. However, in the discretion of the presiding officer an oral hearing may be conducted where in the opinion of the

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presiding officer, the case cannot be resolved by a review of the documentary evidence.

(b) Hearings are held at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078, or such other place as may be designated by the presiding officer.

[52 FR 29012, Aug. 5, 1987, as amended at 63 FR 66053, Dec. 1, 1998; 76 FR 15219, Mar. 21, 2011]

§ 965.9 Evidence.

(a) In general, admissibility will hinge on relevancy and materiality. However, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(b) Testimony shall be given under oath or affirmation and witnesses are subject to cross-examination.

[52 FR 29012, Aug. 5, 1987, as amended at 76 FR 15219, Mar. 21, 2011]

§ 965.10 Transcript.

Testimony and argument at hearings shall be reported verbatim, unless the presiding officer otherwise orders. Transcripts or copies of the proceedings are supplied to the parties at such rate as may be fixed by contract between the reporter and Postal Service.

§ 965.11 Initial decision.

The presiding officer shall render an initial decision in writing, based on the record, as expeditiously as possible, but to the extent practicable within 10 working days of closing of the record. The decision will be brief, containing summary findings of fact, conclusions of law, and reasons therefor. If there has been a hearing the presiding officer may in his discretion render an oral decision. A typed copy of such oral decision will subsequently be furnished to the parties to establish the date for commencement of time for requesting review of the initial decision.

§ 965.12 Appeal.

Within 10 days after receipt by the parties of the initial or tentative decision, either party may file an appeal to the Judicial Officer. The Judicial Offi-

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cer, or by delegation the Associate Judicial Officer, in his or her sole discretion, also may review the initial or tentative decision on his or her own initiative. If an appeal is denied, the initial or tentative decision becomes the final agency decision upon the issuance of such denial. If an appeal is not filed and the Judicial Officer, or by delegation the Associate Judicial Officer does not review the initial or tentative decision on his or her own initiative, a final order will be issued. The Judicial Officer's decision on appeal or his or her final order is the final agency decision with no further agency review or appeal rights.

[76 FR 15219, Mar. 21, 2011]

§ 965.13 Compromise and informal disposition.

Nothing in these rules precludes the compromise, settlement, and informal disposition of proceedings initiated under these rules at any time prior to the issuance of the final agency decision.

§ 965.14 Public information.

The Librarian of the Postal Service maintains for public inspection in the Library copies of all initial, tentative, and final agency decisions and orders. Copies of decisions also are available on the Judicial Officer's section of the official Web site of the U.S. Postal Service. The Recorder maintains the complete official record of every proceeding.

[76 FR 15219, Mar. 21, 2011]

PART 966—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO ADMINISTRATIVE OFFSETS INITIATED AGAINST FORMER EMPLOYEES OF THE POSTAL SERVICE

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